

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 95-54, as amended

Introduced by Council President Parrott at the request of the County Executive
Legislative Day No. 95-20 Date June 20, 1995

AN ACT to repeal and reenact, with amendments, Subsection 267-41.1, Chesapeake Bay Critical Overlay District, of Article VI, District Regulations, of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended; to address the State-mandated Comprehensive Review of the Chesapeake Bay Critical Area Management Program; to comprehensively revise the Harford County Critical Area Program; to provide for Civil Penalties for zoning violations; and generally relating to the County's Chesapeake Bay Critical Area Management Program.

By the Council, June 20, 1995

Introduced, read first time, ordered posted and public hearing scheduled

on: July 18, 1995

at: 6:30 p.m.

By Order: Zoe Brendak, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on July 18, 1995, and concluded on, July 18, 1995

Zoe Brendak, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

Section 1. Be It Enacted By The County Council of Harford County, Maryland, that Subsection 267-41.1, Chesapeake Bay Critical Area Overlay District, of Article VI, District Regulations, of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended, be and is hereby repealed and reenacted, with amendments; all to read as follows:

Chapter 267. Zoning

Part 1. Standards

Article VI. District Regulations.

§ 267-41.1 Chesapeake Bay Critical Area Overlay District.

A. Purpose and intent. The State of Maryland has recognized the Chesapeake Bay as an estuarine system of great importance to the state and to the nation as a whole. As such, it has enacted the Chesapeake Bay Critical Area Act (Chapter 794, Laws of 1984, AS AMENDED) and the Chesapeake Bay Critical Area Program Development Criteria pursuant to that Act, which require that local jurisdictions implement a management and resource protection program for those areas within one thousand (1,000) feet of tidal waters and tidal wetlands and any additional areas that a local jurisdiction deems important to carry out the purpose of the Act. Harford County also recognizes the importance of protecting the resources of the Chesapeake Bay and hereby establishes that the goals of this management program are to:

(1) Minimize adverse impacts on water quality resulting from sedimentation and stormwater runoff from development in the coastal areas of the County.

(2) Conserve fish, wildlife and plant habitat.

(3) Maintain and, if possible, increase the amount of forested area in the County's coastal areas because of its benefits to water quality and plant and wildlife habitat.

(4) Minimize the adverse secondary impacts of development occurring in the coastal areas of the County.

(5) Monitor and control development in the County's Critical Area so that the natural resources of the Chesapeake Bay, its tidal tributaries and their shoreland areas will be protected and

1 preserved for future generations.

2 B. Creation. In order to carry out the provisions of this resource protection and management
3 program, a Critical Area overlay district is hereby established, in conjunction with existing zoning
4 regulations and districts which shall apply to all development and redevelopment within the County's
5 Critical Area. The regulations of the overlay district are intended to foster environmentally sensitive
6 development within the County's Critical Area by setting forth standards requiring the minimization
7 of adverse impacts on water quality and protection of the natural plant, fish and wildlife habitats in
8 the County's Chesapeake Bay Critical Area. The management program developed for land areas
9 lying within the overlay district shall be the County's Master Plan for such areas.

10 C. Application. The requirements of the Critical Area Overlay District shall apply to all areas
11 shown on each Zoning Map Overlay, to include, at a minimum, all areas within [one thousand
12 (1,000)] 1,000 feet of tidal waters and [wetlands] STATE OR PRIVATE WETLANDS AND THE
13 HEADS OF TIDES DESIGNATED UNDER TITLE 9 OF THE NATURAL RESOURCES
14 ARTICLE , and such additional areas as designated to meet the purpose of the district. The overlay
15 district as shown on each Zoning Map Overlay is further divided into three (3) separate land use
16 management categories for the purposes of planning, regulating and monitoring the type and intensity
17 of land use development and redevelopment activities occurring within the County's Critical Area.
18 The three (3) land use management categories are as follows:

- 19 (1) Intensely developed areas (IDA).
20 (2) Limited development area (LDA).
21 (3) Resource conservation areas (RCA).

22 D. Soil types. Soil types in Harford County's Critical Area with development constraints are
23 set forth in Table XVI, attached hereto and incorporated herein by reference as part of this section
24 as though it were fully stated herein.

25 E. Prohibited uses.

- 26 (1) The following uses shall be prohibited within this overlay district:

- 1 (a) New or expanded sanitary landfills AND RUBBLE LANDFILLS.
2 (b) New or expanded solid or hazardous waste collection or disposal facilities.
3 (C) NEW STORAGE TANKS FOR VEHICLE FUELS ON RESIDENTIAL
4 LOTS.

5 (2) All existing facilities of these types shall be operated in conformance with all
6 applicable county, state and federal regulations.

7 F. Regulation of uses in the Critical Area Overlay District.

8 (1) Existing zoning. Unless otherwise specified in this section, the rights and limitations
9 pertaining to the use of the land as specified in this Zoning Code shall remain in effect, subject to
10 compliance with any additional requirements of this section.

11 (2) This section supplements existing County zoning and other regulations governing
12 development in the Critical Area and is superimposed upon all existing zones and land use activity
13 specified in this section. All development or redevelopment activity must conform to the existing
14 zoning regulations, to the development regulations specified in the subdivision regulations and to the
15 special conditions and regulations set forth in this section. In the event of conflicts between existing
16 zoning regulations, subdivision regulations and other overlay district regulations and this section, [this
17 section shall control] THE MORE RESTRICTIVE SECTION SHALL APPLY.

18 (3) Development activities. Permitted development activities are regulated in accordance
19 with the following standards for the specific management area categories within which such activities
20 are proposed:

21 (a) Intensely developed areas (IDA).

22 (1) Pollutant loadings associated with the new development or redevelopment
23 ment in an IDA shall be reduced by a minimum of ten percent (10%) from predevelopment levels
24 through the use of on-site stormwater management/best management practices or similar measures
25 located off site. The procedures contained in technical reports entitled ["Approach for Determining
26 Stormwater Management Requirements in the Chesapeake Bay Critical Area"] "APPLICANT'S

1 GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR
2 THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN IDA, AND THE TECHNICAL
3 GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR
4 THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN INTENSIVELY DEVELOPED
5 AREAS (IDA)" (Appendix C of the Harford County Chesapeake Bay Critical Area Management
6 Program, AS AMENDED) shall be used to determine the amount of reduction required and what
7 specific measures are needed to meet this requirement.

8 (2) POLLUTANT LOADINGS ASSOCIATED WITH CONSTRUCTION
9 OUTSIDE OF THE CRITICAL AREA BUFFER OF ACCESSORY STRUCTURES AND MINOR
10 ADDITIONS THAT INCREASE THE TOTAL IMPERVIOUS SURFACES BY GREATER THAN
11 250 SQUARE FEET ON RESIDENTIAL LOTS OF RECORD AS OF 12/31/85 IN THE IDA
12 SHALL BE MITIGATED BY THE USE OF STORMWATER MANAGEMENT/BEST
13 MANAGEMENT PRACTICES (BMPS) AS SPECIFIED IN APPENDIX C, AS AMENDED,
14 AND/OR THROUGH THE USE OF ADDITIONAL LANDSCAPED PLANTINGS ON THAT LOT
15 OR PARCEL.

16 (a) BMPS ARE SPECIFIED IN THE "THE APPLICANT'S
17 GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR
18 THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN INTENSIVELY DEVELOPED
19 AREAS (IDA)" (APPENDIX C OF THE HARFORD COUNTY CHESAPEAKE BAY CRITICAL
20 AREA MANAGEMENT PROGRAM, AS AMENDED).

21 (b) MITIGATIVE PLANTINGS SHALL BE PERMEABLE
22 AREAS EQUAL TO OR GREATER IN AREA THAN THE INCREASE OF IMPERVIOUS
23 SURFACES, SHALL BE PLANTED WITH AT LEAST ONE TREE PER 100 SQUARE FEET OF
24 IMPERVIOUS SURFACE ADDED TO THE LOT, AND SHALL BE ESTABLISHED AND
25 MAINTAINED IN ACCORDANCE WITH A LANDSCAPING PLAN AND COVENANT AS
26 APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING. WHERE POSSIBLE,

1 SUCH NEW PLANTINGS SHOULD BE LOCATED BETWEEN THE NEW CONSTRUCTION
2 AND SURFACE WATERS. TREE PLANTINGS SHALL BE OF NATIVE SPECIES.

3 (c) IF MITIGATIVE LANDSCAPING AND/OR BMPS ARE NOT
4 FEASIBLE AS DETERMINED BY THE ZONING ADMINISTRATOR, THE APPLICANT IS
5 REQUIRED TO PAY A FEE IN LIEU OF \$1.20 PER SQUARE FOOT OF ADDITIONAL
6 IMPERVIOUS SURFACES. MONIES CONTRIBUTED UNDER THIS SECTION SHALL BE
7 DEPOSITED IN A SEPARATE ACCOUNT, AND SHALL BE USED ACCORDING TO
8 G(4)(a)(10)(iv) OF THIS SECTION, AND SHALL NOT REVERT TO THE GENERAL FUND.

9 (d) CONSTRUCTION OF ACCESSORY STRUCTURES WHICH
10 COVER LESS THAN 250 SQUARE FEET ARE EXEMPT FROM MITIGATIVE PLANTING
11 REQUIREMENTS.

12 [(2)](3) Unless determined to be technically infeasible by the Zoning
13 Administrator in consultation with the Director of the Department of Public Works and the Harford
14 County Soil Conservation District, permeable areas shall be established and maintained in vegetation
15 in accordance with a landscaping plan approved by the Department of Planning and Zoning.

16 [(3)](4) Development shall be designed and constructed so as to
17 minimize the destruction of existing forest vegetation.

18 [(4)](5) Existing areas of public access to the shoreline shall be
19 maintained. If possible, the establishment of new areas of public access to the shoreline shall be
20 included in the plans for development or redevelopment of shoreline areas.

21 [(5)](6) Cluster development, as defined in this section, shall be used
22 in developing in the IDA as a means of minimizing the amount of impervious surface area and the
23 destruction of existing natural vegetation unless it is determined by the Zoning Administrator to be
24 infeasible or inappropriate for a specific site. This requirement does not supersede the requirements
25 of §267-46 pertaining to conventional with open space (COS) and planned residential development
26 (PRD).

(b) Limited development areas (LDA).

(1) Pollutant loadings associated with development in the LDA are to be maintained at predevelopment levels through the use of stormwater management/best management practices specified in [the technical report, Approach for Determining Stormwater Management Requirements in the Chesapeake Bay Critical Area] "THE APPLICANT'S GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN IDA, AND THE TECHNICAL GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN IDA." (Appendix C of the Harford County Chesapeake Bay Critical Area Management Program, AS AMENDED).

(2) [The amount of man-made impervious surfaces shall not exceed fifteen percent (15%) of the lot, parcel or property proposed to be developed, except that, on lots less than or equal to one (1) acre in size which are located in subdivisions approved after June 1, 1986, impervious surfaces may cover up to twenty-five percent (25%) of the lot.] MAN-MADE IMPERVIOUS SURFACES SHALL NOT EXCEED FIFTEEN PERCENT (15%) OF THE LOT OR PARCEL PROPOSED TO BE DEVELOPED, EXCEPT FOR THE FOLLOWING:

(a) IF A PARCEL OR LOT ONE-HALF ACRE OR LESS IN SIZE WAS IN RESIDENTIAL USE OR ZONED FOR RESIDENTIAL PURPOSES ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ASSOCIATED WITH RESIDENTIAL USE MAY NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE PARCEL OR LOT.

(b) IF A PARCEL OR LOT ONE-FOURTH ACRE OR LESS IN SIZE WAS IN NON-RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ASSOCIATED WITH NEW DEVELOPMENT OR REDEVELOPMENT MAY NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE PARCEL OR LOT.

(c) ON LOTS LESS THAN OR EQUAL TO ONE (1) ACRE IN SIZE LOCATED IN SUBDIVISIONS APPROVED AFTER DECEMBER 1, 1985, MAN-MADE IMPERVIOUS SURFACES MAY NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE LOT. HOWEVER, THE TOTAL OF THE IMPERVIOUS SURFACES OVER THE ENTIRE SUBDIVISION MAY NOT EXCEED FIFTEEN PERCENT (15%)

(d) SECTION F(3)(b)[2][a-c] DOES NOT APPLY TO A MOBILE HOME PARK IN RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985.

(3) No development shall be permitted on slopes greater than fifteen percent (15%).

(4) Development on soils with development constraints, i.e., highly erodible soils, hydric soils less than forty thousand (40,000) square feet in extent, soils with severe septic constraints and soils with hydric inclusions as listed in Table XVI of this section, shall be restricted. The Zoning Administrator may permit development on such soils if adequate mitigation measures are applied to address the identified constraints and to avoid significant adverse impacts on water quality or fish, plant and wildlife habitats.

(5) The removal and replacement of existing forest cover for development in an LDA area shall meet the following conditions:

(a) Area to be cleared. On a wooded development site, no more than twenty percent (20%) of the forest cover may be cleared PROVIDED THAT THE REMAINING 80% IS MAINTAINED THROUGH RECORDED RESTRICTIVE COVENANTS OR SIMILAR INSTRUMENTS. This cover must be replaced on a one-to-one square-footage basis, rounded to the nearest one hundred (100) square feet. An additional ten percent (10%) of the forest cover may be cleared, provided that replacement of the TOTAL forested area DISTURBED is made on one-to-one-and-five-tenths (1:1.5) square-footage basis. UNLESS NO FOREST WILL BE DISTURBED BY THE DEVELOPMENT, A FOREST STAND DELINEATION IS REQUIRED FOR ANY DEVELOPMENT WITHIN THE CRITICAL AREA IN WHICH FOREST COVERS AN

1 AREA GREATER THAN 40,000 SQUARE FEET. THE FOREST STAND DELINEATION
2 SHALL BE PREPARED ACCORDING TO THE STANDARDS PRESENTED IN CHAPTER 4 OF
3 THE HARFORD COUNTY FOREST COVER CONSERVATION AND REPLACEMENT
4 MANUAL.

5 (b) Replacement of forest cover. The forest cover removed shall
6 be replaced elsewhere on the same site or on another parcel within the Critical Area. If the
7 replacement is not practical at the time of removal, the Zoning Administrator may approve the
8 payment of a forest replacement fee OF \$0.40 PER SQUARE FOOT AREA OF FOREST
9 CLEARED AND NOT OTHERWISE MITIGATED in lieu of the actual planting. MONIES
10 CONTRIBUTED UNDER THIS SECTION SHALL BE DEPOSITED IN A SEPARATE
11 ACCOUNT, AND SHALL BE USED ACCORDING TO G(4)(a)[10][iv] OF THIS SECTION, AND
12 SHALL NOT REVERT TO THE GENERAL FUND.

13 (c) Forest conservation plan. The removal and replacement of
14 forest cover for development must be undertaken as specified in an approved forest conservation plan
15 developed in accordance with procedures specified in the [Forest Cover Conservation and
16 Replacement Manual (Appendix H, Part II)] FOREST MANAGEMENT GUIDE (APPENDIX F, of
17 the Harford County Chesapeake Bay Critical Area Management Program AS AMENDED). For
18 properties requiring subdivision approval, forest conservation plans shall be submitted along with the
19 preliminary plan. For all other projects, forest conservation plans shall be submitted to the
20 Department of Planning and Zoning for review and approval prior to application for a grading permit.

21 (d) COVENANT AND Surety required. To ensure that all afforested
22 or reforested areas required by this section are completed in accordance with approved forest
23 conservation plans and are adequately PRESERVED AND maintained after installation, a surety shall
24 be deposited AND A COVENANT RECORDED with Harford County. Grading permits will not
25 be issued until the COVENANT AND surety have been accepted by the County. THE COVENANT
26 SHALL BE ESTABLISHED BETWEEN THE COUNTY AND THE OWNER OF THE PROPERTY

1 WHICH SHALL ESTABLISH AND PROTECT THE AFFORESTED OR REFORESTED AREAS
2 FROM FUTURE DEVELOPMENT ACTIVITIES. The amount of the surety shall be equal to one
3 hundred and ten percent (110%) OF THE VALUE OF \$0.40 PER SQUARE FOOT OF PLANTING
4 REQUIRED. The surety will be held until the forested area established meets or exceeds standards
5 specified in the [Forest Cover Conservation and Replacement Manual] FOREST MANAGEMENT
6 GUIDE. IF MORE THAN 25% OF THE PLANTINGS IN THE AFFORESTED OR
7 REFORESTED AREA DIE WITHIN THE FIRST TWO GROWING SEASONS AFTER
8 PLANTING, THESE MUST BE REPLACED WITH NEW STOCK. If after two (2) complete
9 growing seasons from the time of planting, all components of the project meet or exceed the
10 standards as determined by an inspection by the Department of Planning and Zoning AND AT
11 LEAST 75% OF THE PLANTED TREES HAVE SURVIVED, two-thirds (2/3) of the surety will
12 be returned. The remainder will be released if, after the third growing season, all standards are
13 met. IF HOWEVER, ADDITIONAL PLANTINGS ARE REQUIRED TO REPLACE MORE
14 THAN 25% OF THE ORIGINAL PLANTINGS WHICH DID NOT SURVIVE, THE SURETY
15 SHALL BE HELD AN ADDITIONAL THREE YEARS FROM THE TIME OF THE LAST
16 PLANTING.

17 [(e) Forest replacement fees. The forest replacement fees for a
18 particular development shall be calculated at the rate of forty cents (\$0.40) per square foot of area
19 cleared, rounded to the nearest dollar.]

20 [(f)](e) Timing of payment. The forest replacement fees shall be paid
21 prior to any clearing of the forest cover on a development site. If not paid previously, the forest
22 replacement fee shall be due and payable at the time of issuance of a grading permit for a site.

23 [(g)](f) Trust fund. Forest replacement fees shall be paid to the
24 Harford County Department of the Treasury and maintained in the Harford County Critical Area
25 Forestry Trust Fund account, which shall be administered by the Harford County Department of
26 Planning and Zoning. Expenditure of such funds shall be solely for the purpose of afforestation and

1 reforestation of areas in the Critical Area, whether on public or private lands.

2 (6) If a development site is unforested, a minimum of fifteen percent
3 (15%) of the site shall be afforested. If the afforestation comprises an area of one (1) acre or
4 greater, a forest conservation plan, [and] financial surety, AND COVENANT as specified in
5 Subsection F(3)(b)(5)(c) and (d) of this section shall be required. For afforestation of areas less than
6 one (1) acre in size, plantings shall be installed according to the guidelines contained in the [Forest
7 Cover Conservation and Replacement Manual] FOREST MANAGEMENT GUIDE (Appendix F).

8 (7) All development plans shall incorporate a wildlife corridor system that
9 connects the largest, most undeveloped or most vegetated tracts of land within and adjacent to the
10 site, thereby providing a continuity of existing on-site and off-site plant and wildlife habitats.

11 [(8) Clearing of forested areas prior to issuance of a grading permit or of
12 areas exceeding the maximum amount allowed by this section constitutes a violation of this section
13 in addition to any other applicable County regulations. Afforestation/reforestation of any area three
14 (3) times the extent of the cleared forest will be required as mitigation for such clearing. All
15 standards and requirements of Subsection F(3)(b)(5)(c) and (d) of this section must be met, including
16 the preparation of forest conservation plans and the posting of the required surety.]

17 [(9)](8) Cluster development shall be used for developing in the LDA
18 as a means of minimizing the amount of impervious surface area and the destruction of existing
19 natural vegetation, unless it is determined by the Zoning Administrator to be infeasible or
20 inappropriate for a specific site. This requirement does not supersede the requirements of §267-46
21 pertaining to conventional development with open space (COS) and planned residential development
22 (PRD).

23 (c) Resource conservation areas (RCA). (1) Agriculture,
24 forestry and areas of natural habitat shall be considered preferred land uses within this area.

25 (2) New industrial and commercial development shall be prohibited.

26 (3) New residential development shall be permitted at a maximum density

1 of one (1) dwelling unit per twenty (20) acres. One (1) residential structure shall be permitted on
2 any existing undeveloped parcel regardless of the density requirement, provided that all other
3 provisions of this section are met.

4 (4) The requirements and standards for [residential] development
5 ACTIVITIES in the RCA designation shall be the same as for developments in the LDA designation.

6 (d) FOREST CLEARING VIOLATION.

7 (1) CLEARING OF FORESTED AREAS GREATER THAN 5000
8 SQUARE FEET ANYWHERE WITHIN THE CRITICAL AREA, OTHER THAN AS SET FORTH
9 IN THIS SECTION PRIOR TO ISSUANCE OF A GRADING PERMIT , OR OF AREAS
10 EXCEEDING THE MAXIMUM AMOUNT ALLOWED BY THIS SECTION CONSTITUTES A
11 VIOLATION OF THIS SECTION IN ADDITION TO ANY OTHER APPLICABLE COUNTY
12 REGULATIONS. AFFORESTATION/REFORESTATION OF AN AREA THREE (3) TIMES THE
13 EXTENT OF THE AREA CLEARED IN VIOLATION WILL BE REQUIRED AS MITIGATION
14 FOR SUCH CLEARING. ALL STANDARDS AND REQUIREMENTS OF SECTION 267-41
15 F(3)(b)(5)(c) AND (d) MUST BE MET, INCLUDING THE PREPARATION OF FOREST
16 CONSERVATION PLANS AND THE POSTING OF THE REQUIRED SURETY AND
17 COVENANT.

18 [(5)](4) Agriculture. Agricultural activities as otherwise permitted by the Zoning Code
19 shall meet the following additional requirements:

20 (a) By May 13, 1991, each agricultural operation in the Critical Area shall have
21 and be implementing an approved soil and water conservation plan to protect the productivity of the
22 land base, preserve or enhance water quality and conserve fish, wildlife and plant habitat, by
23 incorporating best management practices which protect areas identified as habitat protection areas and
24 adequately address the control of nutrients, animal wastes, pesticides and sediment runoff.

25 (b) Prior to the development of soil and water conservation plans as required in
26 Subsection F(5)(a), a twenty-five-foot vegetated filter strip comprised of trees with a dense ground

cover or a thick sod grass shall be maintained adjacent to tidal waters, tidal wetlands or tributary streams. The width of this strip shall be increased by a distance of four (4) feet for every one-percent increase in slope over six percent (6%). Measures approved by the Harford County Soil Conservation District may be used within this filter strip and elsewhere in the Critical Area to control noxious weeds such as Johnson grass, Canada thistle and multiflora rose.

(c) The feeding or watering of livestock is not permitted within fifty (50) feet of tidal waters, tidal wetlands or tributary streams.

(d) Agricultural activities, including the grazing of livestock, shall not disturb the stability of tidal shorelines.

(e) Agricultural activities shall not be expanded in the Critical Area by:

(1) The destruction of nontidal wetlands by diking, dredging or filling operations.

(2) Clearing of forest or woodland on soils with a slope greater than fifteen percent (15%) or on highly erodible soils.

(3) Clearing of lands identified as habitat protection areas, including the clearing of natural vegetation within the Buffer.

(f) Timber harvesting operations on agricultural lands shall be done in accordance with the requirement of this section.

[(6)](5) Forestry operations. Forests are to be considered a protective land use in the Critical Area and, thus, should be managed to protect their value for plant and wildlife habitat and water quality protection.

(a) Timber harvesting affecting one (1) acre or more of forested area IN THE CRITICAL AREA, including timber harvesting on agricultural land and that described above in F(3)(b)(5) of this section, shall be undertaken in accordance with a forest management, OR FOREST CONSERVATION plan prepared by a [registered] forester REGISTERED IN THE STATE OF MARYLAND and approved by the Maryland Forest[, Park and Wildlife] Service based upon

1 recommendations of the Harford County Forestry Board and the Department of Planning and Zoning.
2 [Such plans shall include measures to protect surface and ground water quality, identified habitat
3 protection areas and the continuity of plant and wildlife habitat.]

4 (1) PLANS IN ACCORDANCE WITH THE PROVISIONS IN APPENDIX
5 F OF THE HARFORD COUNTY CHESAPEAKE BAY CRITICAL AREA MANAGEMENT
6 PROGRAM, AS AMENDED WHICH DO NOT INVOLVE CUTTING IN THE BUFFER OR
7 IDENTIFIED HABITAT PROTECTION AREAS MAY BE CONDITIONALLY APPROVED BY
8 THE PROJECT FORESTER. COPIES OF SUCH CONDITIONALLY APPROVED PLANS
9 SHALL BE SENT TO THE FORESTRY BOARD AND THE DEPARTMENT OF PLANNING
10 AND ZONING. IF NO ADVERSE COMMENTS ARE RECEIVED WITHIN TWO WEEKS
11 AFTER SUBMITTAL OF THE PLANS TO THE BOARD AND THE DEPARTMENT, SUCH
12 PLANS ARE FORMALLY APPROVED.

13 (2) FOR PLANS INVOLVING DISTURBANCE TO A HABITAT
14 PROTECTION AREA, A PRE-HARVEST MEETING MUST BE HELD WITH THE
15 LANDOWNER AND/OR HIS DESIGNEE, THE DEPARTMENT OF PLANNING AND ZONING
16 AND THE MARYLAND FOREST SERVICE BEFORE APPROVAL OF THE TIMBER HARVEST
17 MAY BE GRANTED. FOREST MANAGEMENT PLANS MUST BE APPROVED BY THE
18 HARFORD COUNTY DEPARTMENT OF PLANNING AND ZONING, THE HARFORD
19 COUNTY FORESTRY BOARD AND THE MARYLAND FOREST SERVICE BEFORE AN
20 APPLICANT MAY PROCEED WITH A TIMBER HARVEST INVOLVING DISTURBANCE TO
21 A HABITAT PROTECTION AREA.

22 (3) SEPARATE COPIES OF FOREST MANAGEMENT PLANS SHALL
23 BE SUBMITTED TO THE MARYLAND FOREST SERVICE, THE DEPARTMENT OF
24 PLANNING AND ZONING AND THE FORESTRY BOARD FOR THEIR REVIEW AND
25 APPROVAL. PLANS APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING
26 AND THE FORESTRY BOARD SHALL BE SUBMITTED BY THESE AGENCIES TO THE

1 MARYLAND FOREST SERVICE. IF ANY OF THE THREE REVIEWING AGENCIES FIND
2 THE FOREST MANAGEMENT PLAN TO BE INADEQUATE, THAT AGENCY MUST
3 CONTACT THE APPLICANT IN WRITING AS TO WHAT ADDITIONAL INFORMATION IS
4 REQUIRED. THE MARYLAND FOREST SERVICE SHALL NOTIFY THE APPLICANT THAT
5 THE TIMBER HARVEST HAS BEEN APPROVED, AND THE APPLICANT MAY PROCEED
6 WITH THE HARVEST.

7 (4) FOREST MANAGEMENT PLANS SHALL INCLUDE MEASURES
8 TO PROTECT SURFACE AND GROUND WATER QUALITY, IDENTIFIED HABITAT
9 PROTECTION AREAS AND THE CONTINUITY OF PLANT AND WILDLIFE HABITAT AND
10 SHALL INCLUDE A COPY OF THE TIMBER HARVEST PLAN WHICH IS THE PLAN
11 DESCRIBING A PROPOSED TIMBER HARVEST THAT IS REQUIRED TO BE SUBMITTED
12 TO THE MARYLAND FOREST SERVICE FOR A HARVEST OF TIMBER WITHIN THE
13 STATE OF MARYLAND. FOREST MANAGEMENT PLANS SHALL SHOW ALL BUFFERS
14 AND OTHER HABITAT PROTECTION AREAS. FOREST MANAGEMENT PLANS SHALL
15 ALSO SHOW ALL PROPOSED: STREAM CROSSINGS, CULVERTS, LANDING AREAS, LOG
16 DECKS, STOCKPILE AREAS, SKIDDER TRAILS AND HAUL ROADS TO THE NEAREST
17 PUBLIC ROAD, AND THE LIMITS OF DISTURBANCE.

18 (b) Sediment control plans shall be developed for all timber harvesting in the
19 Critical Area involving five thousand (5,000) square feet or more, including those undertaken on
20 agricultural land. Such plans shall be approved by the Harford County Soil Conservation District
21 based upon recommendations of the Maryland Forest[, Park and Wildlife] Service and the Department
22 of Planning and Zoning. Plans shall be submitted according to the procedures contained in the
23 [Forest Cover Conservation and Replacement Manual] FOREST MANAGEMENT GUIDE. The
24 timber harvesting operation covered by such plans shall be implemented in accordance with the
25 specifications contained in the document, Standard Erosion and Sediment Control Plan for Forest
26 Harvest Operations, and any additional specifications established by the Maryland Forest[, Park and

1 Wildlife] Service.

2 (c) Timber harvesting within the Critical Area Buffer shall be subject to the
3 requirements set forth in Subsection G(4)(a)(4) of this section. **TIMBER HARVESTING WITHIN**
4 **THE CRITICAL AREA BUFFER REQUIRES THAT A BUFFER MANAGEMENT PLAN BE**
5 **INCLUDED IN THE FOREST MANAGEMENT PLAN.**

6 [(7)](6) Water-dependent facilities. Those structures associated with industrial,
7 maritime, recreational, educational or fisheries activities requiring a location at or near the shoreline
8 shall be considered water-dependent facilities and, thus, may be allowed within the Critical Area
9 Buffer, subject to the additional conditions of this subsection. An activity is water-dependent if it
10 cannot exist outside the Buffer and is dependent on the water by the intrinsic nature of its operation.

11 (a) **EXCEPT AS OTHERWISE PROVIDED BELOW, NEW OR EXPANDED**
12 **DEVELOPMENT ACTIVITIES OR USES MAY BE PERMITTED IN THE CRITICAL AREA**
13 **BUFFER IN IDA AND LDA PROVIDED THAT IT CAN BE SHOWN:**

14 (1) **THAT THEY ARE WATER-DEPENDENT;**

15 (2) **THAT THE PROJECT MEETS A RECOGNIZED PRIVATE RIGHT**
16 **OR PUBLIC NEED;**

17 (3) **THAT ADVERSE EFFECTS ON WATER QUALITY AND FISH,**
18 **PLANT AND WILDLIFE HABITAT ARE MINIMIZED; AND**

19 (4) **THAT, INSOFAR AS POSSIBLE, NONWATER-DEPENDENT**
20 **STRUCTURES OR OPERATIONS ASSOCIATED WITH WATER-DEPENDENT PROJECTS OR**
21 **ACTIVITIES ARE LOCATED OUTSIDE OF THE BUFFER.**

22 (b) **EXPANSION OF AN EXISTING WATER DEPENDENT FACILITY**
23 **INCLUDES: EXPANSION OF SERVICES, EXTENSION OR CONSTRUCTION OF**
24 **ADDITIONAL SLIPS OR PIERS, CONSTRUCTION OF NEW BUILDINGS, EXPANSION OF**
25 **EXISTING IMPERVIOUS SURFACES WHICH INCREASE THE TOTAL IMPERVIOUS**
26 **SURFACES BY MORE THAN 5,000 SQUARE FEET, OR INSTALLATION OF NEW OR**

1 ADDITIONAL BOAT STORAGE FACILITIES. EXPANSION DOES NOT INCLUDE
2 MAINTENANCE OR REPAIR OR REPLACEMENT OF EXISTING BULKHEADS, PIERS, OR
3 BUILDINGS, OR MAINTENANCE DREDGING. All new or expanded water-dependent facilities
4 shall be located and operated in accordance with the following conditions:

5 (1) The activities shall not significantly alter existing water circulation
6 patterns or salinity regimes.

7 (2) The water body upon which the facility is proposed must have adequate
8 flushing characteristics in the area for natural dispersal of and removal of pollution.

9 (3) Disturbance to wetlands, submerged aquatic vegetation or other areas
10 identified as important aquatic habitats shall be minimized.

11 (4) Adverse impacts to water quality occurring as a result of the facility
12 and associated activities, such as nonpoint source runoff, sewage discharge from land activities or
13 vessels or pollutant runoff from boat cleaning and maintenance operations, shall be minimized.

14 (5) Shellfish beds shall not be disturbed or made subject to discharge which
15 would render them unsuitable for harvesting.

16 (6) Dredging associated with the facility and associated activities shall
17 utilize the method which causes the least disturbance to water quality and aquatic and terrestrial
18 habitats in the immediate vicinity of the dredging operation or within the Critical Area.

19 (7) Dredged material shall not be placed within the Critical Area Buffer
20 or elsewhere in designated habitat protection areas except in previously approved channel maintenance
21 disposal areas or as used for shore erosion protection measures.

22 (8) Interference with the natural transport of sand shall be minimized.

23 (9) Location of such facilities in or adjacent to waterfowl staging and
24 concentration areas shall be avoided to the maximum extent possible. The use of new or existing
25 water-dependent facilities in waterfowl staging and concentration areas shall be minimized during the
26 period of November through March to avoid disturbance to waterfowl wintering there or using the

1 areas as migratory staging areas.

2 (10) A BUILDING PERMIT FOR ANY CONSTRUCTION IN OR OVER
3 TIDAL WATERS IS NOT VALID WITHOUT A CONCURRENT STATE WETLANDS LICENSE
4 OR PERMIT, AND SECTIONS 404/10 PERMITS (AS APPROPRIATE) FROM THE ARMY
5 CORPS OF ENGINEERS.

6 (11) CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE
7 ON NEW OR EXISTING PILINGS OR PIER OVER STATE OR PRIVATE WETLANDS IN THE
8 CRITICAL AREA SHALL NOT BE PERMITTED. NEW BOATHOUSES LOCATED OVER
9 STATE OR PRIVATE WETLANDS IN THE CRITICAL AREA SHALL NOT BE PERMITTED.
10 'BOATHOUSE' MEANS A STRUCTURE WITH A ROOF OR COVER, OR SIMILAR DEVICE
11 PLACED OVER OPEN WATER TO PROTECT A BOAT OR OTHER VESSEL.

12 (b) All applications for new or expanded water-dependent facilities shall be
13 required to submit such pertinent information and materials as are listed in the technical document,
14 Program Requirements for Water-Dependent Facilities (Appendix I of the Harford County
15 Chesapeake Bay Critical Area Management Program, AS AMENDED) AND AS DETERMINED
16 NECESSARY BY THE ZONING ADMINISTRATOR. BASED ON THE PROJECT SIZE AND
17 SCOPE, ENVIRONMENTAL SENSITIVITY OF THE PROJECT SITE AND POTENTIAL
18 ADVERSE IMPACTS TO WATER QUALITY, AQUATIC HABITATS OR TERRESTRIAL
19 HABITATS, THE ZONING ADMINISTRATOR MAY REQUIRE A COMPREHENSIVE WATER-
20 DEPENDENT FACILITY REPORT AS DETAILED IN APPENDIX I OF THE HARFORD
21 COUNTY CHESAPEAKE BAY CRITICAL AREA MANAGEMENT PROGRAM, AS AMENDED.
22 IT IS RECOMMENDED THAT AN APPLICANT CONSULT WITH THE DEPARTMENT OF
23 PLANNING AND ZONING BEFORE DEVELOPING AND SUBMITTING THIS INFORMATION.

24 (c) Conditions relating to specific types of water-dependent uses. The
25 development of the following water-dependent uses shall be subject to the following conditions:

26 (1) COMMERCIAL Marinas, COMMUNITY MARINAS AND PIERS,

1 PRIVATE PIERS, INDUSTRIAL WATER-DEPENDENT FACILITIES, and OTHER associated
2 maritime uses, INCLUDING BOATING, DOCKING AND STORAGE FACILITIES.

3 (a) New, commercial marinas and related maritime facilities shall
4 not be permitted in resource conservation areas. Expansion of existing commercial marinas is
5 allowed in RCA areas only if it is determined by the Zoning Administrator that the expansion will
6 result in an overall improvement in water quality at the marina site or a reduction in the pollutant
7 loading from the marina.

8 (b) New or expanded commercial marinas and related maritime
9 facilities in areas designated as limited or intensely developed areas must meet the following
10 conditions:

11 (i) The best management practices cited in the technical
12 report, Program Requirements for Water-Dependent Facilities in the Critical Area (Appendix I of the
13 Harford County Chesapeake Bay Critical Area Management Program AS AMENDED), shall be
14 applied to the location and operation of new or expanded marinas and related maritime facilities,
15 where applicable.

16 (ii) State sanitary requirements for such facilities are
17 complied with.

18 (c) New or expanded community marinas and other noncommercial
19 boating, docking and storage facilities may be located in the Critical Area Buffer if they meet the
20 following conditions:

21 (i) The facilities do not offer food, fuel or other goods and
22 services for sale and adequate sanitary facilities shall be provided.

23 (ii) The facilities are community-owned and established and
24 operated for the benefit of the residents of a platted and recorded subdivision.

25 (iii) The facilities are associated with a residential
26 development approved by the County for the Critical Area and are consistent with all the standards

and regulations for the Critical Area as set forth in this section.

(iv) Any disturbance of the Critical Area Buffer is the minimum necessary to provide a single point of access to the proposed facilities.

(v) If community piers OR slips [or moorings] are provided as part of the new development, private piers in the development shall not be permitted.

(vi) The number of slips OR piers [or mooring buoys] permitted at the facility shall be the lesser of (a) and (b) below:

(a) One (1) slip for each fifty (50) feet of shoreline in a subdivision in the Intensely and Limited Development Areas and one (1) slip for each three hundred (300) feet of shoreline in a subdivision in the Resource Conservation Area; or

(b) A density of slips or piers, [or mooring buoys] to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Platted Lots or Dwellings

in the Critical Area

Slips and Dwellings

Up to 15

1 for each lot

16 to 40

15 or 75%, whichever is greater

41 to 100

30 or 50%, whichever is greater

101 to 300

50 or 25%, whichever is greater

Over 300

75 or 15%, whichever is greater

(d) No structure connected to the shoreline, such as a dock, pier or boathouse, shall extend outward from the mean high water line more than twenty-five percent (25%) of the distance to the mean high water line on the opposite shore or more than two hundred fifty (250) feet, whichever is less, nor shall it extend into an existing navigational channel.

(e) NEW OR EXPANDED PRIVATE WATER DEPENDENT FACILITIES FOR RESIDENTIAL LOTS MUST MEET THE FOLLOWING CONDITIONS:

(i) A MINIMUM LENGTH OF 50 FT. OF WATERFRONT IS REQUIRED FOR CONSTRUCTION OF A NEW OR EXPANDED PIER.

(ii) NEW OR EXPANDED PRIVATE WATER DEPENDENT FACILITIES WILL ACCOMMODATE NO MORE THAN 4 BOATS.

(iii) NON-WATER DEPENDENT FACILITIES SHALL NOT BE CONSTRUCTED ON PIERS.

(f) NEW, EXPANDED OR REDEVELOPED INDUSTRIAL OR PORT-RELATED FACILITIES AND THE REPLACEMENT OF THESE FACILITIES MAY BE PERMITTED ONLY IN THOSE PORTIONS OF IDA EXEMPTED FROM THE CRITICAL AREA BUFFER AND ARE SUBJECT TO THE PROVISIONS IN SECTION F(6)(a).

(2) Public beaches or other public water-oriented recreation or education areas. Public beaches or other public water-oriented recreation or education areas, including but not limited to publicly owned boat launching and docking facilities and fishing piers, are allowed in the Critical Area Buffer, provided that the following conditions are met:

(a) Adequate sanitary facilities shall be provided.

(b) Service facilities shall be located outside the Buffer.

(c) Permeable surfaces shall be used as the primary surfacing material if no degradation of groundwater would result.

(d) Disturbance to natural vegetation shall be minimized.

(e) HABITAT PROTECTION AREAS SHALL BE PROTECTED AS CONSISTENT WITH PROVISIONS IN SECTION G BELOW.

(f) AREAS FOR PASSIVE RECREATION SUCH AS NATURE STUDY, HUNTING AND FISHING, AND FOR ~~EDUCATIONAL INSTITUTIONS~~ EDUCATION MAY BE PERMITTED IN THE BUFFER, IF NONWATER-DEPENDENT STRUCTURES OR FACILITIES ASSOCIATED WITH THESE PROJECTS ARE, ~~TO THE EXTENT POSSIBLE,~~ LOCATED OUTSIDE OF THE BUFFER.

1 (3) Water-dependent scientific research and fishery-related facilities.
2 Water-dependent scientific research facilities operated by governmental agencies or educational
3 institutions and commercial water-dependent fisheries facilities, such as structures for crab-shedding,
4 fish off-loading, docks and shore-based facilities necessary for fisheries activities, can be located in
5 the Critical Area Buffer, provided that associated non-water-dependent structures or facilities are
6 located outside the Buffer.

7 [(8)](7) Surface mining.

8 (a) The establishment of new surface mining operations within the Critical Area
9 shall be prohibited.

10 (b) Existing operations, including roads, accessory improvements, equipment and
11 storage areas, may be continued within the Critical Area, provided that all such operations shall be
12 conducted in a manner which:

13 (1) Does not adversely impact water quality, identified habitat protection
14 areas or contiguous properties.

15 (2) Permits the rapid reclamation of the site, including any wash pond,
16 when the operation has terminated.

17 (3) Retains the Critical Area Buffer of natural vegetation between the
18 operation and tidal waters, tidal wetlands and tributary streams.

19 (c) The expansion of existing sand and gravel operations in the Critical Area shall
20 be reviewed and may be permitted as a special exception. Prior to accepting any application for
21 Board of Appeals review, the Zoning Administrator shall review the application and shall forward
22 the application to the Board only upon making findings that such expansion shall have met the
23 following conditions.

24 (1) The operation shall not have an adverse impact on identified habitat
25 protection areas.

26 (2) The operation shall not be located on lands which are within one

hundred (100) feet of the mean high water line of tidal waters, TIDAL WETLANDS or the edge of streams.

(3) The operation shall not be located on land with highly erodible soils.

(4) The operation shall not be permitted if the mining activity would prevent the use of the site for agricultural or forestry purposes for more than twenty-five (25) years.

(5) Wash plants, including ponds, spoil piles, related equipment, roads, parking areas and other impervious surfaces, shall not be located within the Critical Area Buffer.

(6) An adequate reclamation plan has been developed.

[(9)](8) Shore erosion control measures. All development activities conducted on lands immediately adjacent to tidal waters or where existing developments are experiencing shoreline erosion problems shall be required to meet the following standards regarding the control of shoreline erosion:

(a) Nonstructural measures (i.e., vegetative stabilization, regrading, etc.) for controlling shore erosion shall be used wherever possible in order to conserve and protect plant, fish and wildlife habitat.

(b) Where structural measures must be used, stone revetments or rip rap shall be used whenever possible to conserve fish and plant habitat. Bulkheads and other structural measures shall be used only where the use of revetments is infeasible or where their use is needed as part of a water-dependent facility.

(c) EROSION CONTROL PLAN. WHERE STRUCTURAL MEASURES MUST BE USED, THESE MUST BE ESTABLISHED AS SPECIFIED IN AN EROSION CONTROL PLAN APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING. THE APPROVED PLAN MUST BE KEPT ON THE PROJECT SITE AND BE AVAILABLE FOR INSPECTION UPON REQUEST OF THE ZONING INSPECTOR DURING THE CONSTRUCTION OF THE EROSION CONTROL MEASURES. AN APPROVED PLAN IS NOT VALID WITHOUT ALL STATE AND FEDERAL PERMITS AND LICENSES REQUIRED TO CONDUCT SUCH

EROSION CONTROL MEASURES. THE EROSION CONTROL PLAN CONTAINS A SITE SKETCH OF THE EXISTING SHORELINE AND A SITE SKETCH OF THE PROPOSED CONTROL MEASURES. THE EROSION CONTROL PLAN ALSO CONTAINS A BRIEF DESCRIPTION OF THE PROPOSED METHODS AND MATERIALS. THE INFORMATION REQUIRED BY THE ARMY CORPS OF ENGINEERS AND MARYLAND DEPARTMENT OF NATURAL RESOURCES/NONTIDAL WETLANDS DIVISION FOR A 404 JOINT PERMIT APPLICATION IS SUFFICIENT FOR SUBMISSION AS AN EROSION CONTROL PLAN.

[(10)](9) Natural Parks. The development and use of areas designated as natural parks shall recognize the limited ability of the natural systems to handle human impacts. The following standards shall apply to the development and use of such areas:

(a) The ability of a specific site to accommodate human disturbance on a daily or seasonal basis shall be considered in the design of visitor use facilities for natural parks areas.

(b) The Critical Area Buffer shall be maintained in the development of any natural parks site. Trees or other suitable vegetation shall be planted within areas of the Buffer which are presently unvegetated.

(c) All areas listed as identified habitat protection areas in §267-4 shall be protected on a natural park site.

(d) Forest cover on the site shall be maintained to the maximum extent feasible.

(e) All publicly owned lands leased for agricultural activities shall have current soil and water conservation plans.

G. Habitat protection areas.

(1) The purpose of this subsection is to ensure protection for the following types of areas with significant resource value, called "habitat protection areas," no matter where they are located within the Critical Area.

(2) The following areas of significant natural value are classified "habitat protection areas" and are so designated on each Zoning Map Overlay or herein defined:

1 (a) Critical Area Buffer. An area a minimum one hundred (100) feet in width as
2 measured from the mean high water line of tidal waters, tidal wetlands and tributary streams shall
3 be established and maintained in a natural condition. [This buffer area is to be expanded beyond one
4 hundred (100) feet to include contiguous sensitive areas such as steep slopes, hydric soils or highly
5 erodible soils whose development or disturbance may impact streams, wetlands or other aquatic
6 environments. In the case of contiguous slopes of fifteen percent (15%) or greater, the buffer is to
7 be expanded four (4) feet for every one percent (1%) of slope or to the top of the slope, whichever
8 is greater in extent.] THE CRITICAL AREA BUFFER IS EXPANDED BEYOND 100 FEET TO
9 INCLUDE THE FOLLOWING CONTIGUOUS SENSITIVE AREAS:

10 (1) HYDRIC SOILS, HIGHLY ERODIBLE SOILS, WETLANDS OR
11 OTHER AQUATIC HABITATS, AND STEEP SLOPES.

12 (2) STEEP SLOPES ARE DEFINED AS SLOPES WHICH EQUAL OR
13 EXCEED FIFTEEN PERCENT (15%) SLOPE. STEEP SLOPES SHALL BE MEASURED BY
14 TRANSECTS SPACED A MINIMUM OF 35 FEET APART ALONG THE BASE OF THE
15 SLOPE. TRANSECTS MEASURING STEEP SLOPES SHALL BE RUN PERPENDICULAR TO
16 THE SLOPE BEGINNING AT THE BASE OF THE SLOPE AND SHALL MEASURE SLOPES
17 WITH A MINIMUM OF 35' RUN INCREMENTS UP THE SLOPE TO THE TOP OF THE
18 SLOPE OR THE BOUNDARY OF THE CRITICAL AREA, WHICHEVER IS LESS. IN THE
19 CASE OF STEEP SLOPES WITHIN OR CONTIGUOUS TO THE CRITICAL AREA BUFFER,
20 THE BUFFER IS ADDITIONALLY EXPANDED BEYOND THE EXPANSIONS FOR THE
21 ABOVE-LISTED SENSITIVE AREAS FOUR (4) FEET FOR EVERY ONE PERCENT (1%) OF
22 SLOPE AS AVERAGED OVER THE CONTIGUOUS STEEPLY SLOPED AREA OR TO THE
23 TOP OF THE CONTIGUOUS STEEPLY SLOPED AREA, WHICHEVER IS GREATER.

24 (b) Nontidal wetlands. Those areas which meet the definition of nontidal wetlands
25 as set forth in §267-4 (Harford County Code 1986, as amended), both mapped and located by field
26 survey. A minimum area of forty thousand (40,000) square feet is hereby established for designation

as a nontidal wetlands, is otherwise identified as a habitat protection area in this section or is shown to be hydrologically connected through surface or subsurface flow to streams and tidal waters.

(c) Habitats of state-designated threatened or endangered species or species in need of conservation, natural heritage areas and habitats of local significance.

(d) Colonial waterbird nesting sites.

(e) Riparian forests and other forested areas utilized as breeding habitat by forest-interior-dwelling species.

(f) Anadromous fish propagation waters.

(g) HISTORIC WATERFOWL STAGING AND CONCENTRATION AREAS IN TIDAL WATERS, TRIBUTARY STREAMS, OR TIDAL AND NONTIDAL WETLANDS.

(3) General provisions.

(a) Development activities or other land disturbances, including commercial tree harvesting and agricultural activities, are prohibited within the boundaries of an identified habitat protection area unless the Zoning Administrator certifies that the location of the activities and/or the limitations and restrictions placed on them will avoid adverse impacts on the water quality protection and plant and wildlife habitat values of the area or to the species dependent upon such areas.

(b) The location of roads, bridges or utilities shall be prohibited within the boundaries of a habitat protection area unless there is no physically feasible alternative, as determined by the Zoning Administrator in consultation with the Director of the Department of Public Works, in which case they shall be located, designed, constructed and maintained to provide maximum erosion protection, to minimize adverse effects on wildlife, aquatic life and their habitats and to maintain hydrologic processes and water quality.

(C) ALL DEVELOPMENT ACTIVITIES THAT MUST CROSS OR OTHERWISE AFFECT STREAMS SHALL BE DESIGNED TO:

(1) RETAIN TREE CANOPY SO AS TO MAINTAIN STREAM WATER TEMPERATURES WITHIN NORMAL VARIATION;

(2) PROVIDE A NATURAL SUBSTRATE FOR STREAMBEDS; AND
(3) MINIMIZE ADVERSE WATER QUALITY AND QUANTITY
IMPACTS OF STORMWATER.

(4) Specific provisions. Activities affecting particular habitat protection areas shall comply with the following requirements:

(a) Critical Area Buffer.

(1) The Buffer shall be maintained in natural vegetation and may include planted native vegetation where necessary to protect, stabilize or enhance the shoreline. IN THE CASE OF NEW DEVELOPMENT WHERE THE BUFFER IS NOT ENTIRELY ESTABLISHED IN WOODY VEGETATION, THE BUFFER SHALL BE PLANTED ACCORDING TO THE STANDARDS SET FORTH IN THE FOREST MANAGEMENT GUIDE FOR BUFFER PLANTINGS.

(2) New development activities, including redevelopment activities and including structures, UNDER-GROUND PETROLEUM PRODUCT STORAGE TANKS, roads, parking areas and other impervious surfaces, mining and related facilities or septic systems (and other disposal systems), may not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities as approved in accordance with Subsection [F(7)] F(6) of this section. REPLACEMENT OF EXISTING UNDER-GROUND PETROLEUM PRODUCT STORAGE TANKS SHALL BE WITH ABOVE-GROUND TANKS.

(3) Where agricultural use of lands within the area of the Critical Area Buffer ceases and the lands are proposed to be converted to other uses, the Critical Area Buffer shall be established. Establishment of the buffer shall include the establishment of appropriate forest vegetation as specified in the [Forest Cover Conservation and Replacement Manual] FOREST MANAGEMENT GUIDE. Appropriate surety AND COVENANT shall also be required as specified in Subsection F(3)(b)(5)(d) of this section.

(4) For any commercial timber harvesting of trees by selection or for any

1 cutting or clearing of land within the Critical Area Buffer, a Buffer management plan shall be
2 prepared by a registered forester and approved by the Maryland Forest [Park and Wildlife] Service
3 based upon recommendations of the Harford County Forestry Board and the Harford County
4 Department of Planning and Zoning. Cutting or clearing operations specified in such plans shall be
5 conducted in accordance with the following requirements:

6 (a) [Clearcutting of loblolly pine and tulip poplar and selective]
7 SELECTIVE cutting [of other species] may be permitted to within fifty (50) feet of the mean high
8 water line of tidal waters, perennial tributary streams and tidal wetlands.

9 (b) Nontidal wetlands and other identified habitat protection areas
10 shall not be disturbed.

11 (c) Disturbance to stream banks and shorelines shall be avoided.

12 (d) The area disturbed or cut shall be replanted or allowed to
13 regenerate in a manner that assures the availability of cover and breeding sites for wildlife and
14 reestablishes the wildlife corridor function of the Buffer.

15 (e) The cutting shall not create logging roads and skid trails within
16 the Buffer.

17 (5) The cutting of trees or removal of natural vegetation may be permitted
18 in the Critical Area Buffer where necessary to provide access to private piers or to install or construct
19 a shore erosion protection device or measure or a water-dependent facility, provided that the device,
20 measure or facility has received all necessary state and federal permits.

21 (6) Individual trees may be cut for personal use, provided that this cutting
22 does not impair the water quality or existing habitat value or other functions of the Buffer, and
23 provided that the trees are replaced on an equal basis for each tree cut, AS APPROVED BY THE
24 DEPARTMENT OF PLANNING AND ZONING. PLANTING SPECIFICATIONS FOR
25 REPLACED TREES ARE GIVEN IN APPENDIX F OF THE HARFORD COUNTY
26 CHESAPEAKE BAY CRITICAL AREA MANAGEMENT PROGRAM, AS AMENDED.

(7) Individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures or which are in danger of falling and therefore causing the blockage of streams or resulting in accelerated shore erosion. INDIVIDUAL TREES REMOVED MUST BE REPLACED ON AN EQUAL BASIS FOR EACH TREE CUT, AS APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING.

(8) Horticultural practices may be used in the Buffer to maintain the health of individual trees.

(9) Other cutting techniques may be undertaken within the Buffer under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.

(10) Buffer Exempt Areas. The following provisions apply to shoreline areas that have been identified as Buffer Exempt Areas in the Harford County Critical Area Program as shown on the Buffer Exempt Area Maps attached hereto and incorporated hereby by reference. Buffer Exempt Areas are those lots of record as of December 1, 1985 where the pattern of residential, industrial, commercial or recreational development prevents the Buffer from fulfilling its intended purposes as stated in COMAR 27.01.09.01.B. for these Buffer Exempt Areas, construction or placement of new or accessory structures, minor additions and associated new impervious surfaces on developed lots or parcels is permitted provided that:

(a) Development does not impact any other Habitat Protection Area;

(b) Variances to other setback requirements have been considered before additional development within 100 feet of mean high tide is approved;

(c) New development and redevelopment in the Buffer Exempt Area shall be located as far from the edge of tidal waters, tidal wetlands and tributary streams as possible, and the removal of existing vegetation shall be the minimum necessary;

(d) When any structure within the Buffer Exempt Area is removed

1 or destroyed, it may be replaced per (c) above, but in no case shall any portion of it be relocated
2 shoreward of the existing building footprint;

3 (e) Except for development associated with water dependent
4 facilities, any proposed structure, addition and associated impervious surface area constructed within
5 the Buffer Exempt Area shall not, in the aggregate, exceed an area greater than [one thousand
6 (1,000)] 1,000 square feet, and within the LDA, the expansion of existing structures shall not
7 increase the total area of impervious surfaces to more than twenty-five percent (25%) of the total area
8 of the parcel or lot whichever is less;

9 (f) New impervious surfaces located within the Buffer Exempt
10 Area shall be required to offset for such development as follows:

11 (i) The area shoreward of the new development or
12 redevelopment shall be established and maintained in native trees, shrubs and ground cover material,
13 and

14 (ii) Native trees and shrubs of an area twice the extent of the
15 new impervious surface created in the Buffer Exempt Area must be established on the site in
16 accordance with a landscaping plan approved by the Zoning Administrator, or

17 (iii) If the required planting, or any portion of the required
18 planting, can not be accomplished on site, or offsite within the Critical Area, as determined by the
19 Zoning Administrator, the applicant shall pay a fee in lieu of \$1.20 per square foot for the area to
20 be planted.

21 (iv) The County shall establish regional areas for plantings
22 and/or stormwater management facilities to fulfill the water quality and wildlife habitat functions of
23 the Critical Area Buffer for those areas which have been exempted from the Buffer Exempt Area
24 provisions using the fee in lieu paid. Monies contributed under this section shall be deposited in a
25 separate account, and shall be used for site identification, acquisition, design, preparation and
26 planting of vegetation at selected regional water quality and wildlife improvement areas, and shall

1 not revert to the General Fund.

2 (b) Nontidal wetlands.

3 (1) Development activities shall not be permitted in nontidal wetlands,
4 except for permitted development associated with water-dependent facilities as listed in Subsection
5 F(7) of this section.

6 (2) A seventy-five-foot Buffer shall be established adjacent to nontidal
7 wetlands.

8 (3) Existing farm ponds and other existing man-made bodies of water for
9 the purpose of impounding water for agriculture, water supply, recreation or waterfowl habitat are
10 specifically excluded from coverage by the provisions of this district.

11 (4) Development activities in the drainage areas to nontidal wetlands shall
12 not adversely affect the quality or quantity of surface or subsurface flow to the nontidal wetland so
13 as to adversely affect its water quality and protection of fish, plant or wildlife habitat value.

14 (5) The location of stormwater management measures is allowed in
15 nontidal wetlands only if the Zoning Administrator determines that there is no other technically
16 feasible location and that the water quality benefits of the measures outweigh the adverse impacts on
17 water quality and plant and wildlife habitat values of the nontidal wetlands affected. In determining
18 the adverse impacts of the location of such facilities, consideration can be given to the compensatory
19 value of mitigation measures proposed to replace the lost water quality and habitat value of the
20 affected nontidal wetlands.

21 (c) Habitats of state-designated threatened or endangered species or species in need
22 of conservation, designated natural heritage areas and habitats of local significance.

23 (1) Development activity and other land disturbances shall be prohibited
24 in [areas mapped as] state-designated natural heritage areas, state-designated habitats of threatened
25 and endangered species and species in need of conservation or identified habitats of local significance.
26 Subject to the review of a site-specific study prepared in consultation with the [State of Maryland,

1 Department of Natural Resources,] MARYLAND FISH, HERITAGE AND WILDLIFE
2 ADMINISTRATION and the Zoning Administrator may approve development activities or
3 disturbances if it can be shown that the proposed activities will not have or cause adverse impacts on
4 the identified habitats.

5 (2) Forest management plans and soil and water conservation plans
6 developed for forestry or agricultural operations within such protection areas shall include measures
7 to protect the integrity of these habitats.

8 (d) Colonial waterbird nesting sites.

9 (1) A minimum one-fourth mile protection area buffer shall be established
10 around any identified colonial waterbird nesting sites unless, subject to the review of a site-specific
11 study prepared in conjunction with the [State of Maryland Department of Natural Resources]
12 MARYLAND FISH, HERITAGE AND WILDLIFE ADMINISTRATION, it can be shown that
13 development activity or disturbances will not have or cause adverse impacts on the identified habitats.
14 Any development activities or other disturbances which are allowed should not occur during the
15 nest-building and incubation periods, approximately February through April.

16 (2) [During February through April, noise from development activities
17 should be minimized in areas adjacent to the buffer in order to avoid adverse impacts on nesting
18 colonial waterbirds.] NOISE FROM CONSTRUCTION OR DEVELOPMENT ACTIVITIES
19 SHOULD BE MINIMIZED DURING THE BREEDING SEASON OF FEBRUARY THROUGH
20 APRIL IN AREAS ADJACENT TO THE ONE-FOURTH MILE PROTECTION AREA BUFFER
21 IN ORDER TO AVOID ADVERSE IMPACTS ON NESTING COLONIAL WATERBIRDS. THE
22 APPLICANT IS REQUIRED TO CONTACT THE WILDLIFE RESOURCE CONSERVATION
23 SERVICE OF THE DEPARTMENT OF NATURAL RESOURCES FOR INFORMATION ON THE
24 SPECIFIC BREEDING SEASONS.

25 (e) Riparian forests and other forested areas utilized as breeding habitat by forest
26 interior dwelling species. The following management practices shall be followed in the case of

1 development, forest operations or other activities in areas identified as breeding habitat for
2 forest-interior-dwelling species in accordance with the procedures specified in the technical report,
3 A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area. (Appendix N of
4 the Harford County Chesapeake Bay Critical Area Management Program):

5 (1) Minimize disturbance during the May-August breeding season.

6 (2) Locate development or other activities that would cause disturbance
7 to the forested areas such as roads, utility line corridors, structures and intensive timber harvesting
8 on the periphery of the site.

9 (3) To the maximum extent feasible, retain the forest canopy and trees and
10 shrubs underneath the canopy. A TIMBER HARVEST WITHIN FOREST INTERIOR DWELLING
11 SPECIES HABITAT SHALL NOT OPEN THE CANOPY BY MORE THAN 30%.

12 (4) Timber harvesting shall be undertaken utilizing techniques which help
13 to maintain or improve habitat for forest interior dwelling species. The State of Maryland Forest[,
14 Park and Wildlife] Service shall be consulted for advice on the use of proper techniques prior to any
15 timber harvesting operations.

16 (f) Anadromous fish propagation waters. The following management measures
17 shall apply to any streams identified as anadromous fish propagation waters:

18 (1) The installation or introduction of concrete rip rap or other artificial
19 surfaces onto the bottom of natural streams shall be prohibited unless it can be demonstrated that
20 water quality and fisheries habitat can be improved.

21 (2) Channelization or other physical alterations which may change the
22 course or circulation of a stream shall be prohibited.

23 (3) Construction or placement of dams or other structures that would
24 interfere with or prevent the movement of spawning fish or larval forms in streams shall be
25 prohibited.

26 (4) The construction, repair or maintenance activities associated with

bridges or other stream crossings or with utilities and roads, which involve disturbance within the Critical Area Buffer or which occur in streams, shall be prohibited between March 1 and June 15.

(5) All proposed in-stream construction projects shall maintain the natural stream channel bottom and predevelopment conditions.

H. Variances. Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship to an applicant. All applications for variances shall be reviewed by the Zoning Administrator for conformance with applicable provisions of this section, and a written report shall be provided to the Board of Appeals. In granting a variance, the Board shall issue written findings demonstrating that the requested approval complies with each of the following conditions:

(1) That a literal interpretation of the provisions of this section will deprive the applicant of rights commonly enjoyed by other properties in similar geographic and land use management areas within the Critical Area.

(2) That the granting of a variance will not confer upon the applicant any special privilege that would be denied by this section to other lands or structures within the Critical Area.

(3) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

(4) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the purpose and intent of this section.

(5) That all identified Habitat Protection Areas on or adjacent to the site have been protected by the proposed development and implementation of either on-site or off-site programs.

(6) That the growth allocation for the County will not be exceeded by the granting of the variance.

1 (7) That the variance will not be substantially detrimental to adjacent properties or will
2 not materially impair the purpose of this part 1 or the public interest.

3 (8) All applications for variance requests shall be filed in writing in accordance with
4 Section 267-9.D. of the Zoning Code. Notice of all variance requests and copies of applications filed
5 in accordance with this section shall be sent to the Chesapeake Bay Critical Area Commission within
6 ten (10) working days of filing with the Department of Planning and Zoning. A copy of the
7 recommendation of the hearing examiner or of the Board in acting on the variance shall be promptly
8 sent to the Commission.

9 [I. All applications for variance requests shall be filed in writing in accordance with the County's
10 Rules of Procedure. Notice of all variance requests and copies of applications filed in accordance
11 with this section shall be sent to the Chesapeake Bay Critical Area Commission within ten (10)
12 working days of filing with the Department of Planning and Zoning. A copy of the recommendation
13 of the hearing examiner or of the Board in acting on the variance shall be promptly sent to the
14 Commission.]

15 [J]I. Special exceptions. All projects requiring approval as special exceptions within the Critical
16 Area must meet the standards of this section. The Zoning Administrator may require such additional
17 information, studies or documentation deemed necessary to ensure that applicable requirements of this
18 district are met. Applications will not be considered complete for processing until all information
19 as required by the Zoning Administrator has been received.

20 [K]J. Nonconforming uses AND STRUCTURES. Subject to those requirements governing
21 nonconforming uses OR STRUCTURES contained in §267-20 of this Code, any use OR
22 STRUCTURE in existence as of the date of the enactment of this section shall be allowed to continue
23 as originally built and utilized. Any intensification or expansion of such existing nonconforming useS
24 OR STRUCTURES shall only be allowed subject to the approval of a variance along with all
25 necessary findings, as described in Subsection H of this section.

26 [L]K. Grandfathering provisions. Notwithstanding the density provisions of Subsection F(3)(c) of

1 this section, the following development activities shall be allowed in the Critical Area, provided that
2 the development activity conforms to all applicable provisions for the protection of identified habitat
3 protection areas, for the development of water-dependent facilities; and for adequate stormwater
4 management measures INCLUDING THE LIMITATION OF IMPERVIOUS SURFACES IN LDA
5 IN ACCORDANCE WITH F(3)(b) OF THIS SECTION:

6 (1) Construction of a single-family dwelling on an undeveloped, legal parcel of land OR
7 LOT OF RECORD which existed as of December 1, 1985.

8 (2) Construction of subdivisions that received final approval prior to June 1, 1984,
9 provided that lots not individually owned are consolidated or reconfigured to comply with the
10 provisions of this section to the maximum extent possible.

11 (3) Construction of subdivisions which received final approval between June 1, 1984, and
12 December 1, 1985.

13 (4) Construction of subdivisions which received final approval after December 1, 1985,
14 and prior to the date of approval of this section. Such subdivisions shall be consistent with the
15 provisions of this section, or the development of these areas must utilize a portion of the County's
16 growth allocation.

17 (5) The expansion by no more than fifty percent (50%) of commercial uses on parcels
18 designated as limited development areas because they did not meet the minimum twenty-acre size
19 required for IDA designation.

20 [M]L. Amendments to management area boundaries. As defined in this section, the boundaries
21 shown on the [overlay] CRITICAL AREA maps depicting the Critical Area land use management
22 areas (IDA, LDA, RCA) may require amendment from time to time. All such amendments or
23 changes shall be reviewed in accordance with the following procedures and shall conform to the
24 required standards as outlined in this subsection:

25 (1) General procedures.

26 (a) The [Zoning Administrator] COUNTY COUNCIL may propose changes or

1 amendments to the boundaries as shown on the [overlay] CRITICAL AREA maps [as may be
2 necessary]. The basis for approval of such amendments shall [either] be due to:

3 (1) A mistake in the original designation of a management area; OR
4 (2) [As part of the] THE periodic review of the overall management
5 program; or

6 (3) [As a] A request for a growth allocation.

7 (b) All such proposed amendments shall be reviewed in accordance with the
8 procedures and standards of this subsection.

9 (c) Application submittal [deadlines]. All applications for amendments shall be
10 reviewed on an annual basis. [Amendments involving a growth allocation request shall be submitted
11 by January 1, with the County Council to take action on these required amendments by July 1 of that
12 year. All other amendment requests shall be submitted by July 1, with the County Council to take
13 action by December 31.] APPLICATIONS SHALL BE SUBMITTED IN THE FOLLOWING
14 MANNER:

15 (1) AMENDMENTS INVOLVING A GROWTH ALLOCATION REQUEST
16 SHALL BE SUBMITTED TO THE DEPARTMENT OF PLANNING AND ZONING BY JUNE
17 1. THE DEPARTMENT OF PLANNING AND ZONING SHALL HOLD A PRE-APPLICATION
18 MEETING WITH THE APPLICANT, AND SHALL NOTIFY THE APPLICANT IN WRITING
19 OF THE SUFFICIENCY OF THEIR APPLICATION WITHIN THIRTY (30) DAYS OF RECEIPT
20 OF THE APPLICATION. THE DEPARTMENT OF PLANNING AND ZONING SHALL
21 PRESENT A REPORT WITH A RECOMMENDATION ON THE PROPOSED AMENDMENT TO
22 THE PLANNING ADVISORY BOARD (PAB) AND THE ENVIRONMENTAL ADVISORY
23 BOARD (EAB) WITHIN NINETY (90) DAYS OF THE DETERMINATION OF A COMPLETE
24 APPLICATION. THE PAB AND EAB SHALL TRANSMIT THEIR RECOMMENDATIONS ON
25 THE PROPOSED AMENDMENT TO THE COUNTY COUNCIL WITHIN NINETY (90) DAYS
26 OF RECEIPT OF THE PLANNING AND ZONING STAFF REPORT. THE DEPARTMENT OF

1 PLANNING AND ZONING SHALL PRESENT A STAFF REPORT WITH A
2 RECOMMENDATION ON THE AMENDMENT TO THE COUNTY COUNCIL CONCURRENT
3 WITH THE PAB RECOMMENDATION.

4 (2) ALL OTHER AMENDMENT REQUESTS SHALL BE SUBMITTED
5 TO THE DEPARTMENT OF PLANNING AND ZONING BY JANUARY 1. THE
6 DEPARTMENT OF PLANNING AND ZONING SHALL HOLD A PRE-APPLICATION
7 MEETING WITH THE APPLICANT, AND SHALL NOTIFY THE APPLICANT IN WRITING
8 OF THE SUFFICIENCY OF THEIR APPLICATION WITHIN THIRTY (30) DAYS OF RECEIPT
9 OF THE APPLICATION. THE DEPARTMENT OF PLANNING AND ZONING SHALL
10 PRESENT A REPORT WITH A RECOMMENDATION ON THE PROPOSED AMENDMENT TO
11 THE PLANNING ADVISORY BOARD (PAB) AND THE ENVIRONMENTAL ADVISORY
12 BOARD (EAB) WITHIN NINETY (90) DAYS OF THE DETERMINATION OF A COMPLETE
13 APPLICATION. THE PAB AND EAB SHALL TRANSMIT THEIR RECOMMENDATIONS ON
14 THE PROPOSED AMENDMENT TO THE COUNTY COUNCIL WITHIN NINETY (90) DAYS
15 OF RECEIPT OF THE PLANNING AND ZONING STAFF REPORT. THE DEPARTMENT OF
16 PLANNING AND ZONING SHALL PRESENT A STAFF REPORT WITH A
17 RECOMMENDATION ON THE AMENDMENT TO THE COUNTY COUNCIL CONCURRENT
18 WITH THE PAB RECOMMENDATION.

19 (3) IF THE DEPARTMENT OF PLANNING AND ZONING
20 DETERMINES THAT AN APPLICATION IS INSUFFICIENT, THE APPLICANT SHALL
21 SUBMIT WHATEVER ADDITIONAL INFORMATION THE DEPARTMENT REQUIRES
22 WITHIN THIRTY (30) CALENDAR DAYS FROM THE TIME OF NOTIFICATION OF
23 INSUFFICIENCY. IF THE REQUIRED INFORMATION IS NOT SUBMITTED WITHIN
24 THIRTY (30) DAYS, THE APPLICATION SHALL BE CONSIDERED VOID.

25 (4) THE COUNTY COUNCIL SHALL HOLD A PUBLIC HEARING
26 ON THE PROPOSED AMENDMENT WITHIN SIXTY (60) CALENDAR DAYS FOLLOWING

1 RECEIPT OF THE PLANNING ADVISORY BOARD RECOMMENDATION. NOTICE OF
2 THE DATE, TIME AND PLACE OF THE HEARING SHALL BE PUBLISHED AT LEAST ONE
3 (1) TIME IN AT LEAST TWO NEWSPAPERS PUBLISHED IN THE COUNTY AT LEAST TWO
4 (2) WEEKS PRIOR TO THE HEARING DATE. IN ADDITION, NOTICE SHALL ALSO BE
5 SENT A MINIMUM OF TWO (2) WEEKS PRIOR TO THE HEARING TO ALL PROPERTY
6 OWNERS WHOSE LAND IS IMMEDIATELY ADJACENT TO OR LIES WHOLLY OR IN PART
7 WITHIN THE PROPOSED AMENDMENT AREA. AT ANY TIME AFTER THE HEARING,
8 THE COUNCIL MAY APPROVE OR DENY THESE PROPOSED AMENDMENTS BY
9 RESOLUTION.

10 (5) ALL AMENDMENTS APPROVED BY THE COUNCIL SHALL BE
11 FORWARDED TO THE CRITICAL AREA COMMISSION WITHIN THIRTY (30) CALENDAR
12 DAYS OF THE COUNCIL'S FINAL ACTION. NO AMENDMENT SHALL BE CONSIDERED
13 FINAL PENDING ACTION BY THE STATE OF MARYLAND CRITICAL AREA
14 COMMISSION.

15 (d) [Application submittals.] INFORMATION REQUIRED. At a minimum, all
16 applications for amendments shall include the following information:

17 (1) The proposed boundaries of the amendment request showing the
18 existing and proposed boundaries of the management area.

19 (2) A written justification describing how the proposed amendment
20 conforms to the objectives of the County's Critical Area Management Program and addresses the
21 required findings for the management area where the project is to be located as specified below.

22 (a) The Zoning Administrator shall require additional materials as
23 may be necessary for the review of the proposed amendments. For those amendments involving a
24 growth allocation request, the information required for concept plan or preliminary plan approval as
25 listed in the Subdivision Regulations shall be submitted, including factors listed in Subsection [N] M
26 of this section. For amendments involving the correction of a mistake in the original designation, the

applicant shall ALSO provide a statement specifying the mistake in the original designation of a land use management area that makes the proposed amendment necessary.

[(b) All application submittals will be initially reviewed for the completeness and adequacy of the application, and all applicants will be notified in writing within thirty (30) days of the sufficiency/insufficiency of their applications.

(e) Amendment review and notice procedures.

(1) Within ninety (90) days after a determination of application completeness has been made, all applications for amendments shall be forwarded to the Planning Advisory Board for its review and action. The Board shall then transmit its recommendation to the County Council for final local action.

(2) The County Council shall hold a public hearing on the proposed amendment within sixty (60) days following receipt of the Planning Advisory Board recommendation. Notice of the date, time and place of the hearing shall be published at least one (1) time in the county newspapers of record at least two (2) weeks prior to the hearing date. In addition, notice shall also be sent a minimum of two (2) weeks prior to the hearing to all property owners whose land is immediately adjacent to or lies wholly or in part within the proposed amendment area.

(3) All amendments approved by the Council shall be forwarded to the Critical Areas Commission within thirty (30) days of the Council's final action. No amendment shall be considered final pending action by the State of Maryland Critical Area Commission.]

(2) FEES. THE FOLLOWING FEE SCHEDULE SHALL APPLY TO ALL APPLICATIONS FOR AMENDMENTS TO MANAGEMENT AREA BOUNDARIES:

(a) PUBLICATION AND POSTING FEE.....\$200.00

(b) FILING FEE (ALL PROJECTS).....\$500.00

PLUS \$15.00 PER ACRE OR PORTION OF AN ACRE WITHIN
THE CRITICAL AREA OF HARFORD COUNTY.

(3) IF THE COUNCIL TAKES ACTION TO DENY A GROWTH ALLOCATION OR

1 BOUNDARY MISTAKE ARGUMENT, THE APPLICANT MAY NOT SUBMIT AN
2 APPLICATION FOR THE SAME REQUEST FOR TWO YEARS FOLLOWING THE DECISION
3 UNLESS A SIGNIFICANT CHANGE HAS BEEN MADE IN THE OWNERSHIP OR SITE
4 CONDITIONS.

5 [N]M. Expansion of intensely developed and limited development management areas.

6 (1) General requirements. The boundaries of the intensely developed and limited
7 development management area, as shown on each Zoning Map Overlay, may be expanded in
8 accordance with the following procedures for use of a portion of the County's growth allocation:

9 (a) Acreage. The total area of expansion shall not exceed an area equal to five
10 percent (5%) of that portion of the total land in the County's resource conservation management area
11 that is not designated tidal wetlands. No more than one-half (1/2) of the allocated expansion shall
12 occur in areas shown in the resource conservation management area.

13 (b) Location. Expansion of the intensely developed or limited development
14 management areas may be approved subject to the following locational criteria:

15 (1) Such areas shall be located adjacent to an existing limited development
16 area or intensely developed management area.

17 (2) Such areas shall be located at least three hundred (300) feet from tidal
18 waters or tidal wetlands if the land was originally designated in the original resource conservation
19 management area, unless the Zoning Administrator certifies that a Critical Area Buffer less than three
20 hundred (300) feet in width is adequate to protect water quality and fish, plant and wildlife habitat.

21 (3) Such areas shall incorporate measures to protect water quality and
22 identified habitat protection areas located on or adjacent to the proposed expansion areas.

23 (4) Such areas shall minimize impacts to habitat protection areas and lands
24 in resource conservation management areas in proximity to such an expanded limited development
25 or intensely developed area.

26 (2) Additional requirements. All projects granted a growth allocation shall conform to

1 the following additional standards:

2 (a) All forested area removed shall be replaced on a [one-to-one] square-footage
3 basis in accordance with the procedures specified in [this section] SECTION 267-41, F OF THE
4 ZONING CODE and the [Forest Cover Conservation and Replacement Manual] FOREST
5 MANAGEMENT GUIDE. If such replacement is not feasible, an in-lieu fee must be paid to the
6 County in accordance with the procedures specified in this section.

7 (b) Pollutant loadings associated with developments granted growth allocations
8 shall be [maintained at predevelopment levels.] MANAGED ACCORDING TO THE LEVELS
9 REQUIRED FOR THE LAND USE MANAGEMENT AREA AMENDMENT. In the case of new
10 Intensely Developed Area, such loadings shall be reduced ten percent (10%) from pre-development
11 levels. The procedures contained in the technical report entitled ["Approach for Determining
12 Stormwater Management Requirements in the Chesapeake Bay Critical Area"] "APPLICANT'S
13 GUIDE FOR 10% RULE COMPLIANCE - URBAN STORMWATER QUALITY GUIDANCE FOR
14 THE MARYLAND CHESAPEAKE BAY CRITICAL AREA IN INTENSIVELY DEVELOPED
15 AREAS (IDA)" (APPENDIX C OF THE HARFORD COUNTY CRITICAL AREA
16 MANAGEMENT PROGRAM, AS AMENDED) shall be used to determine the amount of reduction
17 required and what specific measures are needed to meet these requirements.

18 (c) Development on slopes greater than fifteen percent (15%) as measured prior
19 to development shall be prohibited.

20 (d) Development on soils with development constraints; i.e., highly erodible soils,
21 soils with severe septic constraints, hydric soils less than forty thousand (40,000) square feet in
22 extent, and soils with hydric inclusions as listed in Table XVI shall be restricted. The Zoning
23 Administrator may permit development on such soils if adequate mitigation measures are applied to
24 address the identified constraints and to avoid significant adverse impacts on water quality or fish,
25 plant or wildlife habitats.

26 (3) Standards for review of expansion projects.

AS AMENDED

(a) Project Review Criteria. In addition to the requirements listed in Subsections [N]M. 1. and 2. above, all projects requesting an expansion of the IDA and LDA as a growth allocation shall be reviewed and evaluated for their conformance with the following factors:

(1) The amount of forested area and other vegetative cover that is left undisturbed and in a natural state on the site.

(2) Additional public improvements and the specific nature of such improvements that will be provided with the proposed development (Examples of these would include public access facilities to waterfront areas, acceleration of the provision of public water and sewer service to areas with existing health problems, dedication of lands for public park purposes, etc.)

(3) Use of innovative site design and construction design features to minimize the disturbance of natural areas and reduce potential impacts on habitat protection areas and adjacent communities and RCA areas. These features could include, but are not limited to:

(a) The use of cluster development;

(b) The use of shallow-marsh creation stormwater management measures;

(c) The use of buffer areas to minimize impacts on existing habitats and wildlife corridors and protect adjacent natural and developed areas from impacts of the proposed development;

(d) The use of appropriate landscaping plans and materials to enhance the establishment of vegetated buffer areas on the project site.

(b) Annexation Areas. Any area proposed for annexation by a municipality where the proposed use on the parcel requires a change in the land use management area (i.e., RCA to LDA or IDA, etc.) shall be subject to all the procedures for growth allocation as specified in this section.

N. COMPREHENSIVE REVIEW OF THE CRITICAL AREA PROGRAM

(1) THE CRITICAL AREA PROGRAM SHALL BE REVIEWED AT LEAST EVERY FOUR YEARS BEGINNING WITH THE 4-YEAR ANNIVERSARY OF THE PROGRAM

AS AMENDED

ADOPTION, AND THE COUNTY COUNCIL SHALL PROPOSE ANY NECESSARY AMENDMENTS TO THE PROGRAM OR ITS ADOPTED MAPS. THE BASIS FOR APPROVAL OF SUCH AMENDMENTS SHALL BE DUE TO:

- (a) UPDATED RESOURCE INVENTORY,
- (b) REFINEMENT OF PROGRAM FOR BETTER CONSISTENCY WITH THE STATE CRITICAL AREA CRITERIA,
- (c) REFINEMENT OF PROGRAM FOR MORE EFFECTIVE PROTECTION OF NATURAL RESOURCES WITHIN THE CRITICAL AREA.

(2) GENERAL PROCEDURES. ALL SUCH AMENDMENTS OR CHANGES SHALL BE REVIEWED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES AND SHALL CONFORM TO THE REQUIRED STANDARDS AS OUTLINED IN THIS SUBSECTION:

(a) THE DEPARTMENT OF PLANNING AND ZONING SHALL SUBMIT PROGRAM AMENDMENTS TO THE PLANNING ADVISORY BOARD (PAB) AND THE ENVIRONMENTAL ADVISORY BOARD (EAB) TOGETHER WITH A SUMMARY OF THE REASONING FOR THE AMENDMENTS.

(b) WITHIN SIXTY (60) DAYS THE PAB AND THE EAB SHALL TRANSMIT THEIR RECOMMENDATIONS ON THE PROPOSED AMENDMENT TO THE COUNTY COUNCIL.

(c) THE COUNTY COUNCIL SHALL HOLD A PUBLIC HEARING ON THE PROPOSED AMENDMENT WITHIN SIXTY (60) CALENDAR DAYS FOLLOWING RECEIPT OF THE PLANNING ADVISORY BOARD RECOMMENDATION. NOTICE OF THE DATE, TIME AND PLACE OF THE HEARING SHALL BE PUBLISHED AT LEAST ONE (1) TIME IN AT LEAST TWO NEWSPAPERS PUBLISHED IN THE COUNTY AT LEAST TWO (2) WEEKS PRIOR TO THE HEARING DATE. IN ADDITION, NOTICE SHALL ALSO BE SENT A MINIMUM OF TWO (2) WEEKS PRIOR TO THE HEARING TO ALL PROPERTY OWNERS WHOSE LAND LIES WHOLLY OR IN PART WITHIN THE PROPOSED AMENDMENT AREA

1 FOR MAP AMENDMENTS. AT ANY TIME AFTER THE HEARING, THE COUNCIL MUST
2 APPROVE OR DENY THESE PROPOSED AMENDMENTS BY RESOLUTION.

3 (d) ALL AMENDMENTS APPROVED BY THE COUNCIL SHALL BE
4 FORWARDED TO THE CRITICAL AREA COMMISSION WITHIN THIRTY (30) CALENDAR
5 DAYS OF THE COUNCIL'S FINAL ACTION. NO AMENDMENT SHALL BE CONSIDERED
6 FINAL UNTIL APPROVED BY THE STATE OF MARYLAND CRITICAL AREA
7 COMMISSION.

8 O. CIVIL PENALTY FOR ZONING VIOLATION.

9 (1) THE LOCAL COUNTY LEGISLATIVE BODY MAY PROVIDE A CIVIL
10 PENALTY FOR A ZONING VIOLATION, WHICH SHALL BE ENFORCED AS PROVIDED IN
11 THIS SUBSECTION.

12 (2) THE ZONING ADMINISTRATOR MAY DELIVER A CITATION TO A PERSON
13 BELIEVED TO BE COMMITTING A CIVIL ZONING VIOLATION. A COPY OF THE
14 CITATION SHALL BE RETAINED BY THE ZONING ADMINISTRATOR AND SHALL BEAR
15 A CERTIFICATION ATTESTING TO THE TRUTH OF THE MATTERS SET FORTH. THE
16 CITATION SHALL CONTAIN:

- 17 (a) THE NAME AND ADDRESS OF THE PERSON CHARGED;
18 (b) THE NATURE OF THE VIOLATION;
19 (c) THE PLACE WHERE AND THE TIME THAT THE VIOLATION
20 OCCURRED;
21 (d) THE AMOUNT OF THE FINE ASSESSED;
22 (e) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY
23 BE PAID; AND
24 (f) THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE
25 VIOLATION.

26 (3) A PRESET FINE, NOT TO EXCEED \$500, MAY BE IMPOSED FOR EACH

1 VIOLATION. THE COUNTY MAY ESTABLISH A SCHEDULE OF FINES FOR EACH
2 VIOLATION AND MAY ADOPT PROCEDURES FOR COLLECTION OF THESE FINES.

3 (4) A PERSON WHO RECEIVES A CITATION MAY ELECT TO STAND TRIAL
4 FOR THE OFFENSE BY FILING WITH THE ZONING ADMINISTRATOR A NOTICE OF
5 INTENTION TO STAND TRIAL. THE NOTICE SHALL BE GIVEN AT LEAST 5 DAYS
6 BEFORE THE DATE OF PAYMENT AS SET FORTH IN THE CITATION. ON RECEIPT OF
7 THE NOTICE OF INTENTION TO STAND TRIAL, THE ZONING ADMINISTRATOR SHALL
8 FORWARD TO THE DISTRICT COURT HAVING VENUE, A COPY OF THE CITATION AND
9 THE NOTICE OF INTENTION TO STAND TRIAL. ON RECEIPT OF THE CITATION, THE
10 DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE
11 DEFENDANT OF THE TRIAL DATE. ALL FINES, PENALTIES, OR FORFEITURES
12 COLLECTED BY THE DISTRICT COURT FOR ZONING VIOLATIONS SHALL BE REMITTED
13 TO THE COUNTY IN WHICH THE ZONING VIOLATION OCCURRED.

14 (5) IF A PERSON WHO RECEIVES A CITATION FOR A VIOLATION FAILS TO
15 PAY THE FINE BY THE DATE OF PAYMENT SET FORTH ON THE CITATION AND FAILS
16 TO FILE A NOTICE OF INTENTION TO STAND TRIAL, A FORMAL NOTICE OF THE
17 VIOLATION SHALL BE SENT TO THE OWNER'S LAST KNOWN ADDRESS. IF THE
18 CITATION IS NOT SATISFIED WITHIN 15 DAYS FROM THE DATE OF THE NOTICE, THE
19 PERSON IS LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL
20 FINE. IF, AFTER 35 DAYS, THE CITATION IS NOT SATISFIED, THE ZONING
21 ADMINISTRATOR MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE
22 DISTRICT COURT. THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL
23 AND SUMMON THE DEFENDANT TO APPEAR.

24 (6) ADJUDICATION OF A VIOLATION UNDER THIS SUBSECTION IS NOT A
25 CRIMINAL CONVICTION, NOR DOES IT IMPOSE ANY OF THE CIVIL DISABILITIES
26 ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

1 (7) IN A PROCEEDING BEFORE THE DISTRICT COURT, THE VIOLATION
2 SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT AS SET
3 FORTH FOR MUNICIPAL INFRACTIONS IN ARTICLE 23A, § 3 (b) (8) THROUGH (15) OF
4 THE CODE. THE GOVERNING BODY OF ANY COUNTY MAY AUTHORIZE THE COUNTY
5 ATTORNEY TO PROSECUTE A CIVIL ZONING VIOLATION.

6 (8) IF A PERSON IS FOUND BY THE DISTRICT COURT TO HAVE COMMITTED
7 A CIVIL ZONING VIOLATION, THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE
8 PROCEEDINGS IN THE DISTRICT COURT.

9 Section 2. And Be It Further Enacted, That this Act shall take effect 60 calendar days from the
10 date it becomes law.

EFFECTIVE: October 10, 1995

HARFORD COUNTY BILL NO. 95-54 (as amended)

(Brief Title) Est. Revisions to Chesapeake Bay Critical
Area Program

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

[Signature]
Secretary of the Council

[Signature]
President of the Council

Date 8/1/95

Date 8/1/95

BY THE COUNCIL

Read the third time.

Passed: LSD 95-23 (August 1, 1995)

Failed of Passage: _____

By Order

[Signature]
Secretary

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of August, 1995 at 3:00 p.m.



[Signature]
Secretary

BY THE EXECUTIVE

[Signature]
COUNTY EXECUTIVE

APPROVED: Date August 8, 1995

BY THE COUNCIL

This Bill (No. 95-54, as amended), having been approved by the Executive and returned to the Council, becomes law on August 8, 1995.

[Signature]
Secretary

EFFECTIVE DATE: October 10, 1995